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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,246	06/22/2001	John C. Parks	FR-6842-C	9114

7590

06/04/2003

John F Sieberth  
Sieberth & Patty LLC  
2924 Brakley Drive  
Suite A-1  
Baton Rouge, LA 70816

EXAMINER

BADIO, BARBARA P

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 06/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/888,246

Applicant(s)

PARKS ET AL.

Examiner

Barbara P. Badio, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                            | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other:  |

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**Final Office on the Merits**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

2. **The rejection of claims 1-4 under 35 USC 103(a) over Mack et al. ('248) is maintained.**

Applicant's argument centers on the lack of disclosure of the amount of occluded free bromine in the water/DPDPE wet cake taught by Mack. Applicant's argument was considered but not persuasive for the following reason.

As noted by applicant, the reference teaches a water/DPDPE wet cake but does not teach the occluded free bromine contents of the upstream water/DPDPE wet cake. However, because the reference does not concentrate on that which applicant concentrates on does not imply that the two wet cakes are different. If the color of the wet cake evidences its occluded free bromine content as disclosed by the present specification (see page 14, line 1) and Mack teaches improvement in the color of the brominated product by treatment with hot water and a chelating or complexing agent (see col. 5, lines 9-37, especially Example 2-4), one of ordinary skill in the art would have the reasonable expectation that the prior art wet cake treated as taught by Mack would have low amounts of occluded free bromine content even though the amount is not disclosed by the reference. There is no evidence of record showing that the prior art

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wet cake contains more occluded free bromine than that recited by the instant claims. Therefore, based on the teachings of the prior art and the level of skill of the ordinary artisan in the art at the time of the invention, the skilled artisan would have the reasonable expectation that the prior art wet cake treated as taught by Mack would have improved color and, thus, lower occluded free bromine content than the untreated wet cake. As stated in the previous Office Action, distilling off various amounts of excess bromine by the prior art process resulting in the formation of wet cakes having different amounts of occluded bromine would be well within the level of skill of the ordinary artisan.

The examiner notes applicant's argument that the comparative examples record the importance of the process conditions and procedures to obtaining the claimed wet cakes. It is noted that the comparative examples differ not just in the process conditions and procedures but also in the amount of bromine utilized, i.e., 12,712 kg added to the reactor in the prior art process versus 21,760 kg in the comparative example. If applicant intends to argue process steps, the examiner suggests maintaining the same amount of reactants, same temperature etc. in the two processes.

For these reasons and those given in previous Office Actions, the rejection of claims 1-4 under 35 USC 103(a) over Mack et al. ('248) is maintained.

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### ***Telephone Inquiry***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara P. Badio, Ph.D. whose telephone number is 703-308-4595. The examiner can normally be reached on M-F from 7:30am-4pm.

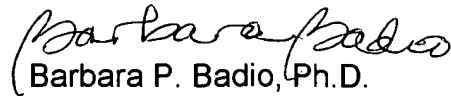
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on 703-308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

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Barbara P. Badio, Ph.D.

Primary Examiner

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June 3, 2003